

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Subscriber Carrier)
Selection Changes Provisions of the)
Telecommunications Act of 1996)
)
C-R Long Distance, Inc.)
Request for Expedited Waiver)

CC Docket No. 97-29

REQUEST FOR EXPEDITED WAIVER

C-R Long Distance, Inc. ("CRLD"), by its attorney, hereby requests a limited waiver of the preferred interexchange carrier authorization and verification requirements of the Commission's Rules, 47 C.F.R. §§64.1100-64.1190, and Carrier Change Orders.¹ The waiver is sought out of an abundance of caution in order to permit the ownership and control of the "Yates City Long Distance" trade name and its approximately 130 current subscriber accounts to be transferred from Celebrate Communications, L.L.C. ("Celebrate") to CRLD without first obtaining and verifying the authorization of such subscribers.

The parties are attempting to close the subject transaction by September 1, 1999. Accordingly, CRLD respectfully requests expedited treatment of this petition to ensure a

¹ Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 10674 (1997), Second Report and Order and Further Notice of Proposed Rule Making, FCC 98-334 (released Dec. 23, 1998) ("Anti-Slamming Second Report FNPRM"); Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, 7 FCC Rcd 1038 (1992), *recon. denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, Phase I, 101 F.C.C.2d 911 (Allocation Order), 101 F.C.C.2d 935 (Waiver Order), *recon. denied*, 102 F.C.C.2d 503 (1985).

seamless transition and uninterrupted service to the approximately 130 existing customers of Yates City Long Distance.

I. BACKGROUND

CRLD is an Illinois corporation, which is engaged in the resale of intraLATA, interLATA and international long distance toll services to the public. CRLD is a wholly-owned subsidiary of C-R Telephone Company ("C-R Telephone"), an Illinois corporation engaged in the provision of local exchange telephone service.

Celebrate is an Illinois limited liability corporation which is owned by Geneseo Communications, Inc.; Cambridge Telcom, Inc.; and Henry County Communications, Inc. Celebrate resells intraLATA, interLATA and international long distance toll services to the public under a number of trade names, including "Yates City Long Distance." It presently uses the "Yates City Long Distance" trade name only in Yates City, Illinois; and serves approximately 130 customers in Yates City under that trade name.

Celebrate has entered into an agreement to sell CRLD the "Yates City Long Distance" trade name and the customer accounts of the approximately 130 customers currently taking service from Celebrate in Yates City under that trade name. CRLD will operate as "Yates City Long Distance" in Yates City. It will furnish the subscribers who continue taking "Yates City Long Distance" service with the very same intraLATA, interLATA and international long distance services over the very same long distance network at the very same rates. In other words, the transfer of the trade name and customer accounts will effect no actual or discernible change in the service provided to "Yates City Long Distance" subscribers, and will require the execution of no preferred carrier change orders. Rather, the transaction will be wholly

transparent to all affected “Yates City Long Distance” subscribers. However, because “Yates City Long Distance” is a trade name rather than a legal entity and because the underlying owner of the trade name and customer accounts is changing from Celebrate to CRLD, the present waiver is being requested out of an abundance of caution.

Prior to the closing of the transaction, all existing “Yates City Long Distance” subscribers will be notified in writing of the change in ownership of their accounts from Celebrate to CRLD. The proposed notice is appended as Attachment A. This notice informs “Yates City Long Distance” subscribers that that there will be no changes in the rates, billing or underlying network for their calls. It expressly states that these subscribers have a choice of many long distance providers, and tells them that they can change their preferred carrier at any time. A similar notice will be sent by CRLD to all “Yates City Long Distance” subscribers after the transaction is completed.

II. WAIVER REQUEST

Grant of a waiver is appropriate if special circumstances exist and approval will serve the public interest. WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

Here, the central and controlling public interest factor is the receipt of uninterrupted, high quality service by the existing “Yates City Long Distance” subscribers. A waiver of the Commission’s authorization and verification rules is necessary to ensure a seamless “transition” of these subscribers from the Celebrate-owned “Yates City Long Distance” service to the identical CRLD-owned “Yates City Long Distance” service. Were CRLD to attempt instead to obtain preferred carrier change authorizations from each of the existing “Yates City Long Distance” subscribers, it is certain that at least some of the approximately 130 current subscribers

would not respond in timely or appropriate fashion. CRLD would have no choice but to terminate its "Yates City Long Distance" service, as of the closing date, to subscribers who had not yet responded or who had responded in an erroneous or inadequate manner.

It is not at all clear that the Commission's carrier change rules were intended to apply to asset purchases, transfers of control and mergers, particularly where the "new" carrier provides service under the same arrangements as the selling carrier and does not need to submit preferred carrier change orders. Nonetheless, CRLD has filed the present waiver request out of an abundance of caution.

CRLD and Celebrate are taking reasonable and sufficient steps to notify all existing "Yates City Long Distance" subscribers in writing of the change in ownership of their customer accounts before and after the transaction takes place. As detailed above, the notices will remind subscribers that they have a choice of long distance providers, and that they can change their preferred carrier at any time. In addition, subscribers will continue to be billed at the same rates and in the same manner as their present "Yates City Long Distance" service, and will continue to have their long distance calls routed over the same network.

CRLD has been advised by Celebrate that, to the best of its information and belief, there are no subscriber complaints against Celebrate's "Yates City Long Distance" service pending at the Commission. To the extent subscriber complaints have been filed (or are filed in the future) against "Yates City Long Distance," CRLD will work with the complainants and the Commission to resolve these complaints.

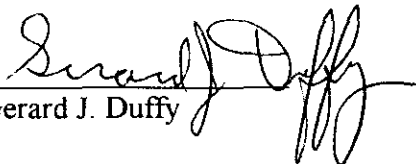
In similar circumstances, the Commission has granted waivers of Sections 64.1100-64.1190 of its rules to requesting carrier during recent months. See, e.g., Long Distance of Michigan, Inc. Request for Waiver, DA 99-1295, released July 9, 1999; Sprint Communications

Company, L.P. Request for Waiver, DA 99-1112, released June 17, 1999; One Call Communications, Inc. d/b/a Opticom Petition for Waiver, DA 99-1033, released May 28, 1999; CoreComm Limited Request For Waiver, DA 99-893, released May 13, 1999; International Exchange Communications Request for Waiver, DA 99-894, released May 13, 1999; and EqualNet Corporation Request for Waiver, DA 99-506, released March 15, 1999.

III. CONCLUSION

Therefore, good cause having been shown, the Commission is requested to waive the preferred carrier authorization and verification requirements of its Rules (47 C.F.R. §§64.1100-64.1190), and the Carrier Change Orders, supra, to permit the approximately 130 existing subscriber accounts and trade name of "Yates City Long Distance" to be transferred from Celebrate to CRLD without first obtaining authorizations and verifications from such subscribers. Because the parties are attempting to close the subject transaction by September 1, 1999, expedited treatment of this petition is requested.

Respectfully submitted,
C-R LONG DISTANCE, INC.

By 
Gerard J. Duffy

Its Attorney

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Dated: July 28, 1999

NOTICE TO CUSTOMERS OF YATES CITY LONG DISTANCE

Our records indicate that you are currently a customer of Yates City Long Distance for your in state calling, out of state calling or both. For those services previously received from Yates City Long Distance, effective on or after September 1, 1999, the service provided under the Yates City Long Distance brand name will be provisioned by C-R Long Distance, Inc. C-R Long Distance is a subsidiary of C-R Telephone Company, providing quality telecommunication services to Northwestern Illinois since 1996. The Yates City Long Distance brand name and all related customer account activity is being purchased by C-R Long Distance, Inc. from Celebrate Communications, L.L.C., which provisions the services on behalf of Yates City Long Distance.

If you currently have Yates City Long Distance for only in-state or out-of state calling and utilize another long distance carrier for the other, this transaction does not involve those services provisioned by the other long distance company.

This change in your Yates City Long Distance service will be completely transparent. There will be no change in service quality, customer service or rates. Billing for Yates City Long Distance calls will continue to be on your regular monthly Yates City Telephone Company phone bill.

As has been the case since Yates City Telephone Company began offering "equal access" to long distance carriers, you continue to have a choice of multiple long distance carriers and can change your preferred carrier at any time.

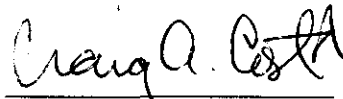
Please contact Yates City Telephone Company at (800) 852-3611 if you have any questions.

CERTIFICATE OF SERVICE

I, Craig A. Costa, hereby certify that I am an employee of the law firm of Blooston, Mordkofsky, Jackson & Dickens and that a copy of the foregoing **"REQUEST FOR EXPEDITED WAIVER"** was served this 28th day of July 1999, by hand delivery, to the persons listed below.

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Craig A. Costa